

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANTHONY R. TURNER,
Plaintiff,

v.

VALLEJO CITY MAYOR, et al.,
Defendants.

No. 2:23-cv-2894-KJM-SCR

FINDINGS & RECOMMENDATIONS

Plaintiff is proceeding without counsel in this civil rights action filed pursuant to 42 U.S.C. § 1983. On July 29, 2024, the previously assigned magistrate judge screened Plaintiff's complaint, found that he states no cognizable claims for relief, and granted him the opportunity to file an amended complaint. ECF No. 33. Plaintiff did not file an amended complaint, instead pursuing an appeal that was dismissed on April 3, 2025. ECF No. 51. On April 30, 2025, the undersigned ordered Plaintiff to file an amended complaint within 30 days. Plaintiff has still not filed an amended complaint, or otherwise responded to the court's order.

Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed without prejudice for failure to state a claim on which relief can be granted, failure to prosecute, and failure to follow a court order. See Local Rule 110; Fed. R. Civ. P. 41(b). In recommending dismissal, the Court has considered "(1) the public's interest in expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the defendants; (4)

1 the public policy favoring disposition of cases on their merits; and (5) the availability of less
2 drastic alternatives.” *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (citation
3 omitted). “The public’s interest in expeditious resolution of litigation always favors dismissal.”
4 *Yourish v. Cal. Amplifier*, 191 F.3d 983, 990 (9th Cir. 1999). The Court’s need to manage its
5 docket also weighs in favor of dismissal, particularly given the heavy caseload in this District.
6 The third factor is neutral given that Defendant has not yet appeared, but “[u]nnecessary delay
7 inherently increases the risk that witnesses’ memories will fade and evidence will become stale.”
8 *Pagtalunan v. Galaza*, 291 F.3d 639, 643 (9th Cir. 2002). The fourth factor weighs against
9 dismissal. The Court has considered less drastic alternatives and concludes that dismissal without
10 prejudice is appropriate.

11 These findings and recommendations are submitted to the United States District Judge
12 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty one days
13 after being served with these findings and recommendations, plaintiff may file written objections
14 with the court and serve a copy on all parties. Such a document should be captioned
15 “Objections to Magistrate Judge’s Findings and Recommendations.” Plaintiff is advised that
16 failure to file objections within the specified time may waive the right to appeal the District
17 Court’s order. *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

18 DATED: June 12, 2025

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SEAN C. RIORDAN
UNITED STATES MAGISTRATE JUDGE